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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,962	12/27/2001	Gerhard Klingauf	076326-0222	7361

22428 7590 11/20/2003

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

ENGLISH, PETER C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/026,962	Applicant(s) KLINGAUF ET AL.	
	Examiner Peter C. English	Art Unit 3616	

-- *Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,5-8,10 and 12-31 is/are pending in the application.  
     4a) Of the above claim(s) 6-8,10 and 12-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☒ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>14</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Invention I, Species A in Paper No. 12 is acknowledged. Claims 6-8, 10 and 12-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, and claims 22-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. There is no allowable generic or linking claim.

### *Drawings*

2. The corrected sheets of drawings filed on 16 October 2003 have been approved.

### *Specification*

3. The specification is objected to because:

In paragraph 53, at lines 1-2, "in a receiver" should be "and is received in respective cavities". See amended claim 1 and original claim 11.

In paragraph 55, at line 3, "occupants" should be "occupant".

Paragraph 85 should be deleted in its entirety since a foreign application cannot be incorporated by reference. Note that paragraph 85 does not refer to a foreign publication, but to a foreign application.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification fails to describe elected Species A (Figs. 1-4) as having a "curved slot" for the shear pin 6 (see claim 1, line . It appears from Fig. 2a that the flange 3 has a curved slot for the shear pin. If this is correct, applicant should amend the specification (e.g., paragraph 53) to state that the cavity in the flange 3 comprises a curved slot.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujii et al. (US 6,416,008). Fujii et al. discloses a force limiting retractor comprising: a spool 4 receiving a seat belt 3; a flange 14 that can rotate with and relative to the spool 4; a torsion bar 7 having a first end attached to the spool 4 and a second end attached to the flange 14; a locking device 6, 13 for selectively blocking rotation of the flange 14; and shear pins 20, 21 received in axial cavities 22-25 located within the spool 4 and the flange 14. In the embodiment of Fig. 5(a), the slot 23 in the flange 14 comprises a curved slot (see column 9, lines 8-11).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujii et al. (US 6,416,008). Fujii et al. fails to teach the quantity of force required to shear the shear pins. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fujii et al. by setting a shear force of 6672 N in order to maximize the energy absorbed by the force limiting retractor. Further, such a modification involving the mere selection of a specific value within prior art general conditions is generally recognized as being within the level of ordinary skill in the art.

#### *Response to Arguments*

10. Applicant's arguments filed 16 October 2008 have been fully considered but they are not persuasive. Applicant argues that Fujii et al. fails to disclose a curved slot. The examiner disagrees because, in the embodiment of Fig. 5(a), Fujii et al. discloses a curved slot 23.

#### *Conclusion*

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

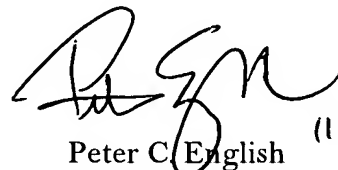
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. English whose telephone number is 703-308-1377. The examiner can normally be reached on Monday through Thursday (7:00 AM - 5:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Peter C. English 11/19/03  
Primary Examiner  
Art Unit 3616

pe  
19 November 2003